

**CIVIL NO. 1:09CV106**

## Defendants.

## ORDER

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On June 24, 2009, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding Defendants' motion to dismiss.<sup>1</sup> The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 10 days of service of the Recommendation; the period within which to file objections expired on July 13, 2009. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendants' motion be allowed in part and denied in part.

**IT IS, THEREFORE, ORDERED** that Defendants' motion to dismiss Plaintiff's claims against the Defendants Isreal (LNU), Teresa (LNU), and

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<sup>1</sup> The Plaintiff was instructed pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), to respond to the Defendants' motion; however, no response was ever filed. **See Memorandum and Recommendation, filed June 24, 2009, at 1; Roseboro Order, filed June 9, 2009.**

Jessie (LNU) is **ALLOWED**, and this matter is **DISMISSED** as to those Defendants.

**IT IS FURTHER ORDERED** that the Defendants' motion to dismiss Plaintiff's claims against Defendant Mark Graham is **DENIED** without prejudice.

**IT IS FURTHER ORDERED** that the Defendants' motion to dismiss based on administrative exhaustion is **DENIED** without prejudice.

Signed: July 16, 2009

A handwritten signature in dark ink, appearing to read 'Lacy H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

